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Susan D. Holder  
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Signature

March 7, 2003  
Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

ZHONG et al.

Serial. No. 09/928,614

Filed: August 13, 2001

For: METHODS FOR STABLE  
TRANSFORMATION OF PLANTS

Art Unit: 1638

Examiner: TBA

Atty Docket: 31514USNP

Confirmation No.: 7523

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INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)(3)

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b)(3), Applicants bring to the attention of the Examiner the documents listed on the attached PTO-1449. To the undersigned's knowledge, this Information Disclosure Statement is being filed before the first Office Action on the merits.

Copies of the listed documents are attached. Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached forms.

Kotowska, Von Urszula, *Bull. Of the Polish Acad. Sci.*, Vol. 32 (1984), pp. 11-12, (Reference J3) is not in English. However, the summary of the paper is in English (See Page 1). The paper provides a description relating to callus production from epidermal cells of sugar beet.

Sander, Transformation von Beta vulgaris L., (Ph.D. Thesis, University of Hannover, Germany, 1994) (Reference V3) is not in English. However, a translation of the summary of the thesis is provided herein. The reference relates to Agrobacterium-mediated gene transfer with Beta vulgaris using cotyledonary explant.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the listed documents are material or constitute "prior art." If the Examiner applies these documents as prior art against any claim in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the Office the relevant facts and law regarding the appropriate status of the documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should any of these documents be applied against the claims of the present application.

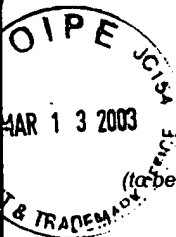
In accordance with 37 CFR §1.97(b)(3), no fee is believed to be required for consideration of this statement because it is being submitted before the mailing date of a first Office Action on the merits. If a fee is deemed to be required, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 50-1744.

Respectfully submitted,



Marcia R. Morton  
Attorney for Applicants  
Registration No. 46,942

Syngenta Biotechnology, Inc.  
P. O. Box 12257  
Research Triangle Park, NC 27709-2257  
Telephone: 919-541-8566  
Date: March 7, 2003



# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number 09/928,614

Filing Date 08/13/2001

First Named Inventor ZHONG

Group Art Unit 1638

Examiner Name KALLIS, Russell

Total Number of Pages in This Submission 11

Attorney Docket Number 31514USNP

## ENCLOSURES (check all that apply)

- ☒ Fee Transmittal Form
- ☐ Fee Attached
- ☐ Amendment / Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☒ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
- ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53

- ☐ Assignment Papers (for an Application)
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) \_\_\_\_\_

- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter

☒ Other Enclosure(s) (please identify below):

Credit Card payment form

Postcard receipt

PTO Form 1449

Remarks

92 Reference documents

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name

Marcia R. Morton, Attorney for Applicants, Registration No. 46,942

Signature

Marcia R. Morton

Date

3/7/03

## CERTIFICATE OF MAILING

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Susan D. Holder

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# FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$ 180.00)

Complete if Known

Application Number 09/928,614

Filing Date 08/13/2001

First Named Inventor ZHONG

Examiner Name KALLIS, Russell

Art Unit 1638

Attorney Docket No. 31514USNP

## METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit Account Number  
Deposit Account Name

50-1744

Syngenta

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Credit any overpayments  
☐ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee	
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Extra Claims Fee from below Fee Paid

Total Claims  -20\*\* =  X  =

Independent Claims  -3\*\* =  X  =

Multiple Dependent  =

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 84	2201 42	Independent claims in excess of 3
1203 280	2203 140	Multiple dependent claim, if not paid
1204 84	2204 42	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$ 0)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 410	2252 205	Extension for reply within second month	
1253 930	2253 465	Extension for reply within third month	
1254 1,450	2254 725	Extension for reply within fourth month	
1255 1,970	2255 985	Extension for reply within fifth month	
1401 320	2401 160	Notice of Appeal	
1402 320	2402 160	Filing a brief in support of an appeal	
1403 280	2403 140	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,300	2453 650	Petition to revive - unintentional	
1501 1,300	2501 650	Utility issue fee (or reissue)	
1502 470	2502 235	Design issue fee	
1503 630	2503 315	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	\$180.00
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))	
1801 750	2801 375	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 180.00)

## SUBMITTED BY

Name (Print/Type)	Marcia R. Morton	Registration No. (Attorney/Agent)	46,942	Telephone	919-541-8566
Signature	Marcia R. Morton	Date	3/7/03		

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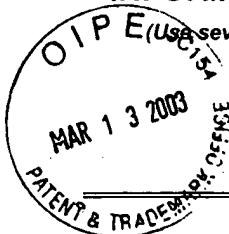
This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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FORM PTO-1449  
(REV. 7-89)U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

## INFORMATION DISCLOSURE CITATION

(Use several sheets if necessary)

ATTY. DOCKET NO.  
S-31514A  
APPLICATION NO.  
09/928,614  
APPLICANT  
ZHONG et al  
FILING DATE:  
08/13/2001Confirmation No.  
7523  
Group  
1632

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE
	A	4,940,838	7/10/90	Schilperoort et al.			
	B	4,945,050	7/31/90	Sanford et al.			
	C	5,164,310	11/17/92	Smith et al.			
	D	5,451,513	9/19/95	Maliga and Maliga			
	E	5,545,817	8/13/96	McBride and Stalker			
	F	5,545,818	8/13/96	McBride and Maliga			
	G	5,591,615	1/7/97	Oester et al.			
	H	5,591,616	1/7/97	Hiei and Komari			
	I	5,767,368	6/16/98	Zhong and Sticklen			
	J	5,767,373	6/16/98	Ward and Volrath			
	K	5,767,378	6/16/98	Bojsen et al.			
	L	5,777,200	7/7/98	Ryals et al.			
	M	5,939,602	8/17/99	Volrath et al.			
	N	5,994,629	11/30/99	Bojsen et al.			
	O	6,023,012	2/8/00	Volrath et al.			
	P	6,084,155	6/4/00	Volrath et al.			
	Q	6,140,555	10/31/00	Reichert and Rudraswamy			

## FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	OFFICE	CLASS	SUBCLASS	TRANSLATION YES NO	
	A1	EP 0 504,869	9/23/92	EP			<input type="checkbox"/>	<input type="checkbox"/>
	B1	EP 0 604 662	6/7/94	EP			<input type="checkbox"/>	<input type="checkbox"/>
	C1	EP 0 723 393 B1	7/31/96	EP			<input type="checkbox"/>	<input type="checkbox"/>
	D1	EP 0 301 749 A2	2/1/89	EP			<input type="checkbox"/>	<input type="checkbox"/>
	E1	WO 91/13159	9/5/91	WIPO			<input type="checkbox"/>	<input type="checkbox"/>
	F1	WO 95/16783	6/22/95	WIPO			<input type="checkbox"/>	<input type="checkbox"/>
	G1	WO 95/34659	12/21/95	WIPO			<input type="checkbox"/>	<input type="checkbox"/>
	H1	WO 00/20612	4/13/00	WIPO			<input type="checkbox"/>	<input type="checkbox"/>
	I1	WO 99/15003	4/1/1999	WIPO			<input type="checkbox"/>	<input type="checkbox"/>

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## FOREIGN PATENT DOCUMENTS (cont.)

		DOCUMENT NUMBER	DATE	OFFICE	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	J1	WO 99/05265	2/4/99	WIPO			<input type="checkbox"/>	<input type="checkbox"/>
	K1	Japanese Patent Appl. (Kokai) No. 4-222527	12/8/2002	JPO			<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent pages, Etc.)

A2	An, et al, <i>New cloning vehicles for transformation of higher plants</i> <i>European Molecular Biology Organization Journal</i> , Vol. 4 (2), (1985) pp. 277-284
B2	Aragao, F. J. L. and E. L. Rech, <i>Morphological factors influencing recovery of transgenic bean plants (Phaseolus vulgaris L.) of a Carioca cultivar</i> <i>International Journal of Plant Sciences</i> , Vol. 158(2), (1997) 157-163.
C2	Babu, P., Chawla, H.S., <i>In vitro regeneration and Agrobacterium mediated transformation in gladiolus</i> <i>Journal of Horticultural Science &amp; Biotechnology</i> , Vol. 75(4), (2000) pp. 400-404
D2	Barwale et al., <i>Screening of Glycine max and Glycine soja genotypes for multiple shoot formation at the cotyledonary node</i> <i>Theoretical and Applied Genetics</i> , Vol. 72 (1986), pp. 423-428
E2	Chee et al, <i>Transformation of soybean (Glycine max) by infecting germinating seeds with Agrobacterium tumefaciens</i> <i>Plant Physiology</i> , Vol. 91 (1989), pp. 1212-1218.
F2	Chilton, M-D, <i>Agrobacterium gene transfer: progress on a "poor man's vector" for maize</i> <i>Proceedings of the National Academy of Sciences, USA</i> , Vol. 90(8), (April 15, 1993) pp. 3119-20.
G2	Christou, P., <i>Genetic transformation of crop plants using microprojectile bombardment</i> <i>Plant Journal</i> , Vol. 2(3), (1992) pp. 275-281
H2	Crossway et al, <i>Integration of foreign DNA following microinjection of tobacco mesophyll protoplasts</i> <i>Molecular Genetics and Genomics</i> , Vol. 202 (1986), pp. 179-185
I2	D'Halluin et al., <i>Transformation of sugarbeet (Beta vulgaris L.) and evaluation of herbicide resistance in transgenic plants</i> <i>Bio/ Technology</i> , Vol. 10 (1992), pp. 309-314.
J2	Elliot et al. "Regeneration of Normal and Transformed Sugar Beet: The Role of N <sup>6</sup> -Benzyladenine." in: eds. Kaminek et al., <i>Proceedings of the International Symposium on Physiology and Biochemistry of Cytokinins in Plants</i> , (SPB Publishing, The Hague, 1992), pages 329-334
K2	Fromm et al, <i>Expression of genes transferred into monocot and dicot plant cells by electroporation</i> <i>Proceedings of the National Academy of Sciences, US</i> , Vol. 82 (September, 1985), pp. 5824-5828

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\*EXAMINER: Initial of reference considered, whether or not citation is in conformance with MPEP 609: Draw a line through citation if not in conformance and not considered. Include a copy of this form with the next communication to applicant.

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## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent pages, Etc.)

L2	Fry et al., "Genotype-Independent Transformation of Sugarbeet Using <i>Agrobacterium Tumefaciens</i> Abstract # 384 in <i>Molecular Biology of Plant Growth and Development, Third International Congress of the International Society for Plant Molecular Biology</i> (R. B. Hallick, editor, Tuscon, Arizona, USA 1991)
M2	Goldschmidt-Clermont, M., <i>Transgenic expression of aminoglycoside adenine transferase in the chloroplast: a selectable marker for site-directed transformation of Chlamydomonas</i> <i>Nucleic Acids Research</i> , Vol. 19 (1991), pp. 4083-4089.
N2	Gonsalves et al., <i>Somatic embryogenesis and regeneration from cotyledon explants of six squash cultivars</i> <i>HortScience</i> , Vol. 30, (1995) 1295-1297.
O2	Haldrup, et al., <i>The xylose isomerase gene from Thermoanaerobacterium thermosulfurogenes allows effective selection of transgenic plant cells using D-xylose as the selection agent</i> <i>Plant Molecular Biology</i> , Vol. 37 (1998), p. 287-296
P2	Hall et al, <i>A high efficiency technique for the generation of transgenic sugar beets from stomatal guard cells</i> <i>Nature Biotechnology</i> , Vol. 14 (September, 1996) pp. 1133-1138
Q2	Hall et al., <i>Computer-Assisted Identification of Protoplasts Responsible for Rave Division Events Reveals Guard-Cell Totipotency</i> <i>Plant Physiology</i> , Vol. 107(4) (1995), pp. 1379-86
R2	Harms et. al, <i>Clonal Propagation in vitro of red beet (Beta vulgaris ssp.) by Multiple Adventitious Shoot Formation</i> <i>Plant Cell Tissue Organ Culture</i> 2, 93-102 (1983)
S2	Herrera-Estrella et al, <i>Expression of chimaeric genes transfered into plant cells using a Ti-plasmid-derived vector</i> <i>Nature</i> , Vol. 303 (May 19, 1983), pp. 209-213
T2	Herrera-Estrella et al., <i>Chimeric genes as dominant selectable markers in plant cells</i> <i>European Molecular Biology Organization Journal</i> , Vol. 2(6) (1983), pp. 987-995
U2	Herrera-Estrella et al., "Agrobacterium as a vector system for the introduction of genes into plants," in: Ed. Dodds, John H., <i>Plant Genetic Engineering</i> (New York, Cambridge University Press, 1985), pp. 61-93
V2	Hood et al, <i>The hypervirulence of Agrobacterium tumefaciens A281 is encoded in a region of pTiBoS42 outside of T-DNA</i> <i>Journal of Bacteriology</i> , Vol. 168 (1986), pp. 1291-1301
W2	Hood et al., <i>Restriction endonuclease map of pTiBoS42, a potential Ti-plasmid vector for genetic engineering of plants</i> <i>Bio/Technology</i> , Vol. 2 (August, 1984), pp. 702-709.
X2	Hooykaas et al, <i>Transformation of Plant Cells via Agrobacterium</i> <i>Plant Molecular Biology</i> , Vol. 13, (1989), pp. 327-336

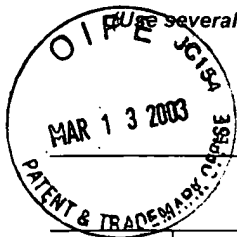
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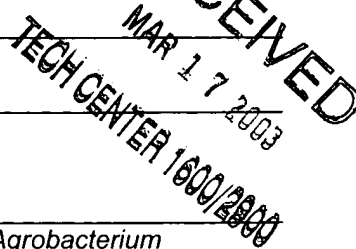
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## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent pages, Etc.)



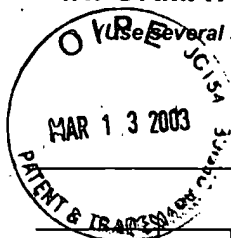
Y2	Horch et al, <i>Inheritance of Functional Foreign Genes in Plants Science</i> , Vol. 223, (1984) pp. 496
A3	Ishida et al, <i>High efficiency transformation of maize (Zea mays L) mediated by Agrobacterium tumefaciens Nature Biotechnology</i> , Vol. 14:7 (June, 1996), pp. 745-750
B3	Jefferson et al, <i><math>\beta</math>-Glucuronidase from Escherichia coli as a Gene Fusion Marker Proceedings of the National Academy of Sciences, US</i> , Vol. 83 (November, 1986), pp. 8447-8451.
C3	Jefferson, R.A., <i>Assaying Chimeric Genes in Plants: The GUS Gene Fusion System Plant Molecular Biology Reporter</i> Vol. 5(4), (1987) pp. 387-405
D3	Jin et al, <i>Genes responsible for the supervirulence phenotype of Agrobacterium tumefaciens A281 Journal of Bacteriology</i> , Vol. 169 (1987), pp. 4417-4425
E3	Komari et al, <i>Transformation of cultural cells of Chenopodium quinoa by binary vectors that carry a fragment of DNA from the virulent region of pTiBo 542 Plant Cell Reports</i> , Vol. 9, (1990) pp. 303-306
F3	Komari et al. <i>Physical and functional map of supervirulent Agrobacterium tumefaciens tumor-inducing plasmid pTiBo542 Journal of Bacteriology</i> , Vol. 166(1) (Apr 1986) pp. 88-94
G3	Komari et al., <i>Vectors carrying two separate T-DNAs for co-transformation of higher plants mediated by Agrobacterium tumefaciens and segregation of transformants free from selection markers The Plant Journal</i> , Vol. 10(1) (Jul 1996), pp. 165-174
H3	Komari, T., <i>Transformation of callus cultures of nine plant species mediated by Agrobacterium Plant Science</i> , Vol. 60(2) (1989), pp. 223-229
I3	Kotowska et al., <i>Preliminary Report on Epidermis Culture of Sugar Beet Bulletin of the Polish Academy of Sciences</i> , Vol. 32, 11-12 (1984)
J3	Kotowska, <i>Morphogenetical capacities of inflorescence shoot tissues of sugar beet in in vitro cultures: II. Division and differentiation of mature tissues cells Beitrage-zur-Biologie-der-Pflanzen</i> , Vol. 67 (2) (1992 (1993)), pp. 209-223 [Summary in English]
K3	Krens et al., <i>The effect of exogenously-applied phytohormones on gene transfer efficiency in sugarbeet (Beta vulgaris L.) Plant Science</i> , Vol. 116, (1996) pp. 97-106
L3	Kubo et al, <i>Nucleotide sequence of the chloroplast rrn16-trnV-rps12-ndhB in sugar beet GenBank Accession number AB032426 [online], [retrieved on 2002-9-25]. Retrieved from the Internet:&lt;URL: http://www.ncbi.nlm.nih.gov/entrez/&gt;</i>

EXAMINER

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## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent pages, Etc.)

M3	Lindsey, K. and Gallois, P., <i>Transformation of Sugarbeet (Beta vulgaris) by Agrobacterium tumefaciens</i> <i>Journal of Experimental Botany</i> , Vol. 41(226) (1990), pp. 529-536
N3	Lindsey et al, "Transformation in Sugar Beet ( <i>Beta vulgaris</i> L.)," in <i>Biotechnology in Agriculture and Forestry</i> , Vol. 23, <i>Plant Protoplasts and Genetic Engineering IV</i> (Y. P. S. Bajaj, Ed., Springer-Verlag, Berlin, 1993) pp. 147-169
O3	McBride et al, <i>Controlled expression of plastid transgenes in plants based on a nuclear DNA-encoded and plastid-targeted T7 RNA polymerase</i> <i>Proceedings of the National Academy of Sciences</i> , US, Vol. 91 (1994 Jul 19), pp. 7301-7305.
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V3	Sander, <i>Transformation von Beta vulgaris L.</i> , (Ph.D. Thesis, University of Hannover, Germany 1994)
W3	Schneider et al., <i>Adventitious Shoot Formation in a Tissue Culture Line of Sugarbeet</i> <i>Biochem. Physiol. Pflanzen</i> . 182, 485-490 (1987)
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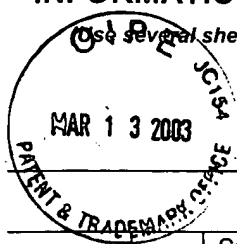
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